IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.15213 of 2000

WEDNESDAY, THE THIRTEENTH DAY OF JUNE TWO THOUSAND AND SEVEN

Between:

Smt. Bandiga Rukmini, W/o. Lt. Venkanna,
Hindu, Female, Housewife, 70 years,
R/o. Koyarajahmundrhy village, Buttaigudem
Mandal, West Godavari District.

… Petitioner

And

The District Collector (Agent to the Govt.)
West Godavari District, Eluru, and others.

… Respondents

Order:

In this Writ Petition, petitioner has questioned the order dated 30-12-1999 passed by the second respondent – Special Deputy Collector (TW) K.R. Puram, in S.R.No.62/99, by which he has ordered eviction of the petitioner from the land admeasuring Ac.4.00 cents in R.S.No.126, situated at Koyarajahmundry village, Buttaigudem

Mandal, West Godavari District.

2. The impugned order of eviction has been passed in exercise of powers under Section 3(2) (a) and (b) of the A.P. Scheduled Area Land Transfer Regulations 1/59 as amended by Regulation 1/70 (for short 'the Regulations'). In the impugned order, it is stated that the list of lands held by non-tribals in the notified scheduled area was circulated by the Mandal Revenue Officer, Buttaigudem, and as such, no further verification of records is necessary. A finding was also recorded in the impugned order to the effect that in spite of notice, there is no appearance and hence the impugned order of eviction is passed.

3. In the affidavit filed in support of the Writ Petition, it is stated that petitioner is in possession of the aforesaid land by virtue of her succeeding to the property of her husband, who had purchased the same in the year 1959 from a non-tribal by name Mr. Vadduri Atchutaramaiah. It is further stated that the vendor, i.e. the said Atchutaramaiah, a
non-tribal, had earlier purchased the said land in the year 1950 from one Maddipotu Rattama, who is also a non-tribal. It is alleged that no notice, as referred in the impugned order, was served on the petitioner and that it has been passed without giving any opportunity.

4. This court, while admitting the Writ Petition, by order dated 18-08-2000, directed the respondents not to evict the petitioner from the land in question, pending further orders. Even though the Writ Petition is of the year 2000, no counter affidavit has been filed and the interim order referred above has been continued all along.

5. As per the Regulations, there is no prohibition that the land

should not be held by a non-tribal. The scope of adjudication in such cases is limited to the extent of examining the transfers as to whether they are made in conformity with or in contravention of the Regulations, after they are notified. However, a reading of the impugned order does not disclose any finding given by the second respondent to the effect that transfer of the land in question was made in favour of the petitioner in violation of the Regulations. Merely because a non-tribal is holding the land in the tribal area, that by itself is not a ground to pass the impugned order of eviction mechanically, without application of mind. It is to be seen that petitioner has alleged that no notice has been served on her. The said allegation has not been controverted by the respondents by filing a counter affidavit. As per the Regulations, no order of eviction can be passed unless a prior notice and opportunity of hearing is given.

6. Though the learned Government Pleader appearing for the respondents seeks time to file counter affidavit, but, as much as no finding has been recorded in the impugned order as to whether the transfer of land in question has been made in contravention of the Regulations, and no notice or opportunity has been provided before passing the impugned order, I deem it a fit case to set aside the order impugned herein.

7. In the result, the Writ Petition is allowed and the order dated 30-12-1999, passed by the second respondent in S.R.No.62/99 is set aside. No order as to costs.

JUSTICE R. SUBHASH REDDY.

June 13, 2007
MRR